



STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

TELECOMMUNICATIONS

IN THE MATTER OF THE APPLICATION)	
OF NETCARRIER TELECOM, INC. FOR)	<u>ORDER OF APPROVAL</u>
AUTHORIZATION TO PROVIDE RESOLD)	
AND FACILITIES-BASED LOCAL)	
EXCHANGE, EXCHANGE ACCESS AND)	
INTEREXCHANGE TELECOMMUNI-)	
CATIONS SERVICES THROUGHOUT)	
THE STATE OF NEW JERSEY)	DOCKET NO. TE00110905

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated November 16, 2000, NetCarrier Telecom, Inc. (Petitioner or NetCarrier) filed a petition with the Board of Public Utilities (Board) requesting authority to provide local exchange, exchange access and interexchange telecommunications services throughout the State of New Jersey. In addition, NetCarrier responded to a Staff questionnaire by letter dated March 15, 2001 and to Staff interrogatories by letters dated May 18, 2001 and May 21, 2001.

BACKGROUND

According to the petition, NetCarrier was incorporated under the laws of the State of Pennsylvania on June 9, 2000. Petitioner's principal offices are located at 4000 North Cannon Avenue, Lansdale, Pennsylvania 19446. Petition at 4.

Petitioner submitted copies of its Articles of Incorporation, Pennsylvania Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. Petition at 2, Exhibit A, B. According to the petition, NetCarrier was formed to provide local exchange, exchange access and interexchange services. Petition at 1. Petitioner advised that it is not yet certified to provide facilities-based local exchange or interexchange telecommunications services in any state. Petition at 2. NetCarrier has not been denied authority to provide telecommunications services in any state. In addition, NetCarrier has no pending civil, criminal or administrative actions against it.

NetCarrier advised that it is currently negotiating an interconnection agreement with Verizon New Jersey Inc.

In its petition, Petitioner advised that it seeks authority to provide local exchange, exchange access and interexchange telecommunications services to business and residential customers throughout New Jersey. NetCarrier plans to offer, but not be limited to, basic services, call management features, digital PBX and DID trunks, Centrex lines, advanced services using digital subscriber line

technology, as well as access, private line, intraLATA toll and InterLATA toll services. In order to provide these services, NetCarrier may use its own facilities, facilities leased from others, services purchased for resale, unbundled network elements or a combination of these. Petition at 2,3.

Petitioner requested waivers of N.J.S.A. 48:3-7.8, and N.J.A.C. 14:1-4.3, and 14:10-1.16, which require that its books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey. Petitioner requested, in the interest of efficiency and to prevent undue burden, permission to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP). May 18, 2001 letter at 1. Petitioner also requests permission to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in Lansdale, Pennsylvania. May 18, 2001 letter at 1. Petitioner also stated that, upon written notice from the Board, it will produce its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petition at 1. Petitioner also asserted that approval of this petition will permit New Jersey customers to achieve increased efficiencies and cost savings. Petition at 1.

With regard to its technical and managerial qualifications, NetCarrier stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey and submitted the professional biographies of its key personnel who, according to NetCarrier, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry. Petition at 2, Exhibit C.

Petitioner has submitted as evidence of its financial qualifications, the required two years of pro forma financials.

By letter dated January 19, 2001, the Division of the Ratepayer Advocate recommended approval of this petition.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. § 151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey

State Legislature's decision that it is the policy of the state to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed NetCarrier's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources, which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange, exchange access and interexchange telecommunications services in New Jersey subject to approval of its tariff. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board. Regarding the Petitioner's request for waivers of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements to maintain Petitioner's books and records under the USOA and within New Jersey. Therefore, subject to the petitioner's continuing responsibility to provide the Board Petitioner's books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED: 7/13/01

BOARD OF PUBLIC UTILITIES
BY:

(signed)
CAROL J. MURPHY
ACTING PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)
FRANCES L. SMITH
BOARD SECRETARY